231

SUPREME COURT OF THE UNITED STATES.

No. 225.

THE UNITED STATES, APP'TS,

vs.

THOMAS RUSSELL, AND ELIZA W. FARNHAM, WIDOW, AND CHARLES H. FARNHAM, HEIRS OF THOMAS J. FARNHAM, DECEASED.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

"Land in Santa Cruz county."

INDEX.

	Original.	Print.
Proceedings of board of commissioners	1	1
Petition	6	3
Affidavit of T. B. Cunningham	9	4
" T. Rusell	11	5
" D. S. Gregory	13	6
" T. B. Cunningham	16	8
Deposition of J. R. Buelna	18	8
" J. Bolcoff	22	10
" J. C. Pelton	26	12
" I. Graham	28	13
" M. Rodriguez	31	14
Map	36	16
Deposition of J. R. Snyder	38	16
" Sarah Wood	40	17
" E. Bryant	42	18
Map	44	18
"C."—Petition, grant, &c	46	19
Opinion	72	28

	Original.	Print.
Decree	78	31
Certificate	82	31
Appeal	84	32
Petition	88	33
Answer	92	34
Summons	98	36
Motion for rehearing	102	37
Deposition of José Balcoff	108	38
Decree	116	41
Appeal	120	43
Clerk's certificate	123	43

1 *Transcript of the proceedings in case No.* 747.

THOMAS RUSSELL, claim't,
vs.
THE UNITED STATES, defendant,
} For land in Santa Cruz county.

2 OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

Be it remembered, that on this second day of March, anno Domini one thousand eight hundred and fifty-three, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Thomas Russell, for land in Santa Cruz county, was presented and ordered to be filed and docketed with No. 747, and is as follows, to wit: (*vide* page 5 of this transcript.)

Upon which petition, the following subsequent proceedings were had in their chronological order, to wit:

SAN FRANCISCO, *January* 9, 1855.

Case No. 747, Thomas Russell, for land in Santa Cruz county, was ordered to be placed at the foot of the 4th class cases on the trial docket.

SAN FRANCISCO, *January* 23, 1855.

Case No. 747 was submitted under the rule of 21 March, 1854.

SAN FRANCISCO, *January* 30, 1 5.

In the same case Commissioner Alpheus Felch delivered the opinion of the board, rejecting the claim.—(*Vide* page 73 of this transcript.)

3 SAN FRANCISCO, *February* 28, 1855.

In the same case the counsel for the claimant filed the following motion and affidavit, to wit: (*vide* page 9 of this transcript.)

SAN FRANCISCO, *March* 13, 1855.

In the same case the counsel for the claimant filed the following affidavit, to wit: (*vide* page 11 of this transcript.)

SAN FRANCISCO, *April* 3, 1855.

In the same case, the U. S. law agent filed the following affidavit, to wit: (*vide* page 13 of this transcript.)

SAN FRANCISCO, *April* 24, 1855.

In the same case Commissioner R. Aug. Thompson delivered the decision of the board upon the motion filed by the counsel for the claimant on the 28th February last, granting the same.

Whereupon it was ordered that the decree of rejection, heretofore entered, to wit, on the 30th January, 1855, be set aside, and that the case be reinstated on the trial docket and placed at the foot thereof.

SAN FRANCISCO, *June* 20, 1855.

In the same case the deposition of José Ramon Buelna, a witness on behalf of the claimant, taken before Commissioner R. Aug. Thompson, with documents marked Exhibits 1 & 2, annexed thereto, was filed.—(*Vide* page 19 of this transcript.)

4 SAN FRANCISCO, *June* 21, 1855.

In the same case the deposition of José Bolcoff, a witness in behalf of the claimants, taken before Commissioner S. B. Farwell, with documents marked Exhibits Nos. 1, 2 and 3, annexed thereto, was filed.—(*Vide* page 24 of this transcript.)

SAN FRANCISCO, *July* 7, 1855.

In the same case the deposition of John C. Petton, a witness in behalf of the claimants, taken before Commissioner R. Aug. Thompson, was filed.—(*Vide* page 29 of this transcript.

SAN FRANCISCO, *July* 10, 1855.

In the same case the deposition of Isaac Graham, a witness in behalf of the claimant, taken before Commissioner S. B. Farwell, was filed.—(*Vide* page 31 of this transcript.)

SAN FRANCISCO, *July* 11, 1855.

In the same case the deposition of Manuel Rodriguez, a witness in behalf of the claimants, taken before Commissioner R. Aug. Thompson, was filed.—(*Vide* page 34 of this transcript.)

SAN FRANCISCO, *July* 23, 1855.

In the same case the deposition of Jacob R. Snyder, a witness in behalf of the claimants, taken before Commissioner S. B. Farwell, was filed —(*Vide* page 39 of this transcript.)

5 SAN FRANCISCO, *July* 24, 1855.

Case No. 747 was submitted on briefs, and taken under advisement by the board.

SAN FRANCISCO, *October* 9, 1855.

In the same case the counsel for the claimant filed the following affidavit, to wit, (*vide* page 16 of this transcript,) and the prayer of the petitioner therein was granted.

SAN FRANCISCO, *October* 11, 1855.

In the same case the depositions of Edward Bryant and Sarah Wood, in behalf of the claimants, taken before Commissioner Alpheus Felch,

were filed, (*vide* pages 41 and 42 of this transcript,) in accordance with the following stipulation, to wit: (*vide* page 15 of this transcript.)

SAN FRANCISCO, *October* 23, 1855.

In the same case Commissioner R. Aug. Thompson delivered the opinion of the board, confirming a part and rejecting a part of the claim, (*vide* page 74 of this transcript,) and the following order was made, to wit: (*vide* page 80 of this transcript)

6 PETITION.

To the Board of Land Commissioners to ascertain and settle the private land claims:

Your petitioner, Thomas Russell, states and gives notice to the board that he claims the following described lands, and prays the same may be confirmed to him by this honorable board:

One tract of eight hundred varas square, lying in Santa Cruz county, and bounded as follows: beginning at an oak tree marked "F," and running thence forty-five and one quarter degrees west twenty-nine and a half chains; thence north forty-one and one half degrees west thirty-six and one tenth chains; thence north forty-five and one quarter degrees east twenty-nine and one half chains; thence south forty-one and one-half degrees east thirty-six and one tenth chains to the place of beginning; which was granted to one José Raymond Buelna by José Raymond de Estrada, then being prefect of California, having full jurisdiction of the Mexican lands then and there in force in California, by which the said prefect had the full power, which grant was made some time previous to the year 1838; the date this petitioner is not able at the present to give, the said grant having been lost or mislaid, and he has not been able to find the record thereof on the archives, but he is informed the same is of record amongst said archives, and when the same is found he prays to be allowed to file a transcript thereof as part of this petition, marked "A," and

7 he expects to be able to find the original grant by the said prefect, and also the espediente made by the alcalde, M. Rodregus, who placed the Buelnas in possession thereof, and if found he prays to be allowed to file it as Exhibit "B," and if he does not find the same he will give before this board verbal evidence thereof, and also to prove that judicial possession was, according to the order of the grant, given to him, when he remained in full possession thereof until about the month of Sept., 1851, when he sold the same to Eliza W. Farnham, as his deed will show, marked "C," and filed herewith, and afterwards the said E. W. Farnham sold the same to this petitioner, as her deed will show, dated the 23d March, 1852, as the deed of that date will show, marked "D" and filed herewith, and your petitioner is in possession thereof under these deeds; the grant was by law perfect, and the judicial possession thereof under it was given to the said Buelna, and he or his transferees have been in possession ever since, and are now so, he therefore prays the same may be confirmed to him.

Your petitioner also prays to give note that he claims and asks the confirmation of another tract of land granted by the Mexican authorities to me, José Arena, lying near the mission of Santa Cruz, beginning at a stake near the creek and running thence south 18 degrees 45 minutes east 320 yards to a stake; thence south 16° 45′ E., 605 yards to a stake; thence north 67° 15′ W. 74 yards to a stake; thence 74° W. 136 yards to a stake; thence N. 68° 50′ W.
8 146 yards to a stake; thence 75° 10′ W. 275 yards to a stake; thence 29° W. 184 yards; thence W. 22° 30′ W. 222 yards to a stake; thence N. 80° E. 183 yards to a stake; thence N. 210 yards to the creek; thence south 72° 30′ E. 74 yards to a stake; thence south 60° E. 102 yards to a stake; thence south 41° 45′ E. 30 yards to a stake; thence south 76° 30′ E. 44 yards to the mill; thence south 84° 45′ E. 242 yards to the place of beginning. This grant was duly and properly to the said José Arana, and he was duly put into possession thereof by the proper officers of the Mexican government, who then and there had full power and authority to do so; but your petitioner is not able to produce the original grant, as the same is in the hands of the said Arana, and he is out of the country, but is expected soon to return, when this petitioner will produce and file the same, or if the same is lost he will produce legal proofs of the existence of the same, and this he prays may also be confirmed.

JOHN WILSON,
Att'y for claimant.

Filed in office March 2d, 1853.

GEO. FISHER, *Sec'y.*

9 *Motion and affidavit.*—No. 747.

THOMAS RUSSELL, CLAIMANT, LANDS IN COUNTY OF ST. CRUZ

Said cause having been submitted under rule, and no appearance having been made by the claimant before the hon. the board of U. S. land commissioners, was rejected, January 30th, 1855.

The claimant, by his counsel and affiant undersigned, respectfully prays the hon. board of land commissioners to allow the above entitled cause to be reinstated in their court upon the following affidavit, to wit:

I, Theodore B. Cunningham, counsel for claimant aforesaid, being duly sworn, depose and say, that in this cause no testimony was ever produced before your hon. court by claimant by reason of causes and circumstances beyond his control.

That affiant believes, and has go d reason to believe, that said claimant can and will produce sufficient documentary evidence and oral testimony to prove and establish his title to said claim.

Affiant further avers that one Manuel Rodriguez, citizen and former alcalde of Sta. Cruz, and also Capt. Graham, resident of the same county, and other witnesses, are still living and are ready to give their testimony in favor of this claim.

10 And affiant further deposes that D. S. Gregory, former counsel of claimant, residing in Santa Cruz, did associate with him in

this cause Gen. John Wilson, of San Francisco, and that the agreement between said attornies was, that said D. S Gregory should procure, furnish and send forward all necessary existing evidence and testimony, to be used by said Gen. John Wilson in San Francisco, in behalf of said claimant before your honorable board.

And that said Gregory did utterly fail and neglect to procure, furnish, and send forward the evidence and testimony aforesaid, thereby rendering it impossible for said attorney Wilson to make appearance in behalf of claimant's title, and doing great injustice and injury to said claimant.

Affiant further deposes, that by consent of all parties he, affiant, remains the counsel in this cause.

Therefore affiant prays your honorable board to restore this cause, to grant a rehearing thereof, and the necessary and just relief to said claimant.

B. CUNNINGHAM,
Att'y for Claimant.

SAN FRANCISCO, *February 27th*, 1855.

Subscribed and sworn to before me, this 28th day of February, 1855.
ALPHEUS FELCH, *Com'r.*

Filed in office February 28th, 1855.
GEO. FISHER, *Sec'y.*

11 *Affidavit of Tho's Russell.*

Thomas Russell, of the county of Santa Cruz, State of California, being sworn, deposes and says: that he is jointly interested with the heirs of the late Thomas J. Farnham in two several parcels of land lying in said county, which were held by the said Farnham under grants respectfully made, the one by Don Manuel Jimeno to José Arana, and the other by José Ramon Estrada to José Ramon Buelna, the former in the year 1843, the latter, deponent is informed and believes, about the same year; that being desirous to secure the confirmation of these titles by the hon. board land commissioners, he placed the papers which he held pertaining to them in the hands of counsel for the prosecution of the same in March or April, 1852; that the said counsel was John Wilson, esq., of San Francisco; that deponent furnished to said Wilson the names of all witnesses whose testimony might aid his claims; that he frequently called upon said attorney to urge his attention to the said claims; that there were addressed to him for the same purpose some two or three letters; and that, in short, deponent used every practicable means to secure his rights.

Deponent further says, that he is informed and believes that said Wilson had a partner to this business, one D. S. Gregory, att'y, whose special business and care it was to have procured and sent forward the witnesses and documentary evidence in support of said claims;

12 and that notwithstanding said Gregory's home was in the town of Santa Cruz, where the witnesses reside, and that he visited

San Francisco many times in company, or at the same time with some of the most important of them, he utterly failed to bring them, at any time, to said Wilson, or name them to him as witnesses in behalf of said claimants.

Such is the statement of the said Wilson as regards his, Wilson's, neglect of the case.

And deponent further says that in consequence of said neglect and inattention on the part of his said attorney and his associate, the said claims were rejected by the hon'l land commissioners without examination, whereby deponent is rendered liable to great injury and wrong. For which reason he respectfully prays the hon. land comm'rs to reinstate said case upon their docket for hearing. Whereupon, as deponent fully believes, such documents and witnesses can be produced as will fully establish the justice and legality of deponent's claim.

THOMAS RUSSELL.

Sworn to and subscribed before me this 9th day of March, A. D. 1855.

JNO. H. COOLY, *J. P.*

Filed in office March 12, 1855.

GEO. FISHER, *Sec'y.*

13 *Affidavit of Durell S. Gregory.*

THOMAS RUSSELL, claimant, *vs.* THE UNITED STATES. } No. 747.

BEFORE THE BOARD OF U. S. LAND COM'RS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CAL'A.

CALIFORNIA, *San Francisco county:*

Durell S. Gregory, being duly sworn, deposes and says, that he is well acquainted with the land claimed in the above-entitled cause, and also with the claimant, Thomas Russell, and that he, the said deponent, is not and never was, either alone or as associate with Gen'l John Wilson, or any one else, the attorney of the said claimant, in and about the prosecution of the said claim; and that he never was a partner of the said Wilson, although he was associated with him in the prosecution of three or four claims to this board.

Deponent further says, that he never saw a list of the witnesses to be examined in this case, and is not certain that he even knows or ever did know what witnesses the said claimant desired to have examined therein; and he further says, that to the best of his recollection the said Wilson, who was the attorney of the said claimant,
14 never did, either by letter, orally, or in any other manner, request this deponent to send up any witnesses to be examined in this case, and that if he had this deponent was under no *objections* whatever, either expressed or implied, to obey such request;

he further says, that he, deponent, may at different times have been in the city of San Francisco at the same time that witnesses of claimant were there, but that he never thought of taking their depositions even if such were the fact, as it was none of his, deponent's, business.

And this deponent further says, that the said Russell, as he believes, never regarded him as his attorney in the said case; that since the presentation and filing of said claim he has frequently heard him, the said Russell, speak of the said Wilson as his attorney, and that he has also had divers conversations with the said Wilson; that he, the said Wilson, never seemed to regard him as an associate counsel in the matter.

And the said Gregory further says that he is in nowise responsible for the neglect of the said claim.

DURELL S. GREGORY.

Subscribed to and sworn before me this 3 day of March, 1855.

ALPHEUS FELCH, *Com'r.*

Filed in office April 3, 1855.

GEO. FISHER, *Sec'y.*

15 *Stipulation*

THOS. RUSSELL
vs.
THE UNITED STATES. } For land in S'ta Cruz co.

U. S. Land Commission:

It is stipulated and agreed between the law agent for the United States, before the honorable board of land commissioners and the counsel in the above-entitled cause for the claimant, that the depositions of Sarah Wood and Edward Briant, taken before his honor Judge Alpheus Felch, on this eleventh day of October, 1855, shall be filed and received as evidence in said case, No. 747, in the same manner and with the same effect as if they had been taken previously to the submission of the said cause.

LOUIS BLANDING,
Asso. Law Agent.
B. CUNNINGHAM,
Att'y for Claimant.

Filed in office Oct. 11, 1855.

GEO. FISHER, *Sec'y.*

16 *Affidavit.*

THOMAS RUSSELL, *vs.* THE UNITED STATES. } For lands in S'ta Cruz county.

To the honorable board of United States land commissioners for settling private land claims in California.

The undersigned, of counsel for the claimant in the above-entitled cause, being duly sworn, deposeth and says, that by inadvertance of counsel the said Thomas Russell is made to appear as the sole petitioner in the said case, for a confirmation of title to the lands therein described.

It appears from the papers filed in the case, that only one undivided half of the said lands conveyed to said Russell; the other undivided half still remaining the property of the heirs of Thomas J. Farnham, deceased, of which facts this affiant is now well informed, and knows this statement to be true; affiant, therefore, respectfully prays, that agreeably to the above statement your honorable board will permit and order the title of said case, and the claimant's petition therein, to be so changed and amended as to make Eliza W. Farnham, widow, and Charles H. Farnham, son and only surviving child, being the legal heirs of said Thomas J. Farnham, dec'd, to be co-claimants and co-petitioners with the said Thomas Russell for the confirmation to them of their title to the said lands, agreeably to their respective interests in the same, to wit, one undivided
17 half to the said Eliza W., widow, and charles H., son of said Thomas J. Farnham, deceased, and the other half to said Russell, the present claimant, and the motion is hereby submitted.

J. B. CUNNINGHAM,
Att'y for claimant.

SAN FRANCISCO, *Oct.* 9, 1855.

Subscribed and sworn to before the commissioners, sitting as a board this 9 October, A. D. 1855

Attest:
WM. B. FLEMING.

Filed in office Oct. 9, 1855.

GEO. FISHER, *Sec.*

18 *Deposition of José Ramon Buelna.*—747.

UNITED STATES OF AMERICA,
State of California.

SAN FRANCISCO, *June* 20, 1855.

This day, before R. Aug. Thompson, one of the commissioners to ascertain and settle the private land claims in said State, came José Ramon Buelna, a witness in behalf of the claimant in case No. 747 on the docket, who, being sworn, deposed as follows:

The U. S. law agent is present.

Questions by Mr. Cunningham for claimant.

1st question. What is your name, age, and place of residence?

Answer. My name is José Ramon Buelna; my age, about 45 years; and I live at Santa Cruz, in the county of Santa Cruz, Cala.

2d question. Did you ever know the late Capt. Thomas J. Farnhm? and do you know his widow, Eliza W. Farnham? if yea, did you ever sell and convey to them, or either of them, a tract or parcel of land in Santa Cruz county.

Answer. I am acquainted with the said Thomas J. Farnham, and am with Eliza W. Farnham, his widow. I did sell to the said Thomas J. Farnham four suertes of land in the said county.

3d question. Look at the document now shown you, marked "Exhibit No. 1" to this deposition, and state whether the same is
19 genuine, and whether you recognize therein your own signature, and those of Man'l Roddriguez and J. L. Majors.

Answer. I have examined the said document. It is genuine, and bears the genuine signature of myself, as also those of the said Rodriguez and Majors, who attested the said document.

4th question. Look at the document now shown you, marked "Exhibit No. 2" to this deposition, and state whether you believe the same to be a true copy of a deed made by you to the said widow, Eliza W. Farnham.

Answer. I have examined the said document, (the contents thereof being made known to me through the interpreter to this commission,) and believe the same to be a true copy of the said deed referred to in the last question.

5th question. Describe the property so conveyed to said Thomas J. Farnham and his widow, Eliza, its boundaries, &c.

Answer. The property so conveyed is called "Mesa del Ojo de Agua," and is bounded on the north by the place called Portrero; on the south by the lands of Nicolas Dalleno and Majors; on the west by the Nacimiento of the Ojo de Agua, and above it the said Ojo de Agua being included within the premises so conveyed; and on the east by the Vista a la Mission, which is the edge of the plain where the Mission of Santa Cruz is seen below the table.

The extent of the said land is four suertes from the mesa to
20 the said Ojo de Agua; it is about 800 varas, more or less, and from the lands of the said Majors to the said Portrero, about 400 varas more or less; the said Portrero is also called Portrero de San Pedro Regulado.

6th question. From whom did you receive the grant of the land in question?

Answer. In the year 1839 I petitioned Governor Alvarado for the said land, and he gave permission to occupy it until the convening of the junta departmental, when I should receive my title to the land. I received the title in the year 1842 of the prefect José Ramon Estrada, signed by Gen'l Micheltorena. I did not deliver this title to the said Farnham, but retained until he should complete the payment for the said property, and while I thus had it in my possession my house

was burned with all my papers, and among them this title. I had the said title examined by the authorities, William Blackburn, J. L. Majors, and Man'l Rodriguez, who pronounced my title good and told me I could sell.

7th question. Did you occupy and live on said land previous to selling the same to said Farnham?

Answer. I did; I built a house and corral on it and erected a saw-pit for whip sawing. I lived on it with my family about six years.

Cross-examined by Mr. McKune.

1st question Was any espediente of your application for a
21 grant left in the archives? if yea, why was there no evidence left with the government of the issuance of the grant?

Answer. I believe there was My father went to Monterey for my title, and when he returned he told me that the papers had been archived.

2d question. State all the proceedings which led to the issuance of the grant; who wrote the petition; who presented it to the governor; to what office was it referred for report; how long after the petition was presented to the governor was it that the grant was issued, and how you received the grant from the governor?

Answer. My petition was written by my father, and presented it to the governor; it was referred to the alcalde, Rafael Castro, and Juan Gonzales, deceased, administrator of the mission of Santa Cruz, for report. I did not receive the title until about two years after it was presented, and I received it from the governor through my father, who brought from the prefect, from whom I received it.

JOSÉ RAMON BUELNA.

Subscribed and sworn to before me this 20th day of June, A. D. 1855.

R. AUG. THOMPSON, *Com'r.*

Filed in office June 20th, 1855.

GEO. FISHER, *Sec'y.*

22 *Deposition of José Bolcoff.*—747.

UNITED STATES OF AMERICA,
State of California, ss:

SAN FRANCISCO, *June* 21, 1855.

This day, before S. B. Farwell, one of the commissioners to ascertain and settle the private land claims in said State, came José Bolcoff, a witness in behalf of the claimant in case No. 747 on the docket, who, being duly sworn, deposed as follows; his evidence interpreted by the interpreter to the board.

The U. S. law agent is present.

Questions by Captain Cunningham for claimant.

1st question. What is your name, age and place of residence?

Answer. My name is José Bolcoff; my age, fifty-eight years, and I reside in the county of Santa Cruz, California.

2nd question. Are you acquainted with José Ramon Buelna, José Arana, Eliza W. Farnham, and were you acquainted with the late Thomas J. Farnham, her husband; if yea, how long have you known them?

Answer. I am acquainted with the three former and was with the latter of the said persons; I have known said Buelna and Arana for many years; I knew the said Thomas J. Farnham from 1847 until he died, and I have known the said Eliza W. Farnham, his
23 widow, ever since 1850.

3d question. State if you know what lands were sold by Buelna and Arana to the said deceased Thomas J. Farnham or to his said widow, Eliza?

Answer. The said José Ramon Buelna sold to the said Thomas J. Farnham, deceased, the tract of land known by the name of "Mesa del Ojo de Agua," and the said Arana sold to him, said Farnham, the tract of land known by the name of Portrero, situated in the county of Santa Cruz, about 400 or 500 varas northwesterly from the mission of Santa Cruz.

The two said tracts of land are entirely enclosed with wooden fences.

4th question. State what you know of the titles of Buelna and Arana to the lands thus sold to said Farnham.

Answer. The prefect, José Ramon Estrada, addressed me a note in the year 1842, I then being alcalde, in which he stated that the said Buelna had a title to the said "Mesa del Ojo de Agua," and telling me that I should not disturb (prejudice) him. With respect to the title of the said Arana, I can state that in the year 1842 or about that time the said Arana petitioned me, as alcalde, for the said tract of land "Portrero," which, in virtue of my authority, I granted him, and dispatched the grant so made by me to the governor for
24 his approval or disapproval, Governor Alvarado then being governor; and the said title was returned to me from the governor with his approval, signed by Man'l Jimeno, senior member of the departmental junta, acting governor, *for his approval or disapproval, Governor Alvarado then being governor; and the said title was returned to me from the governor with his approval, signed by Man'l Jimeno, senior member of the departmental junta, acting governor.*

5th question. Look at the two documents now shown you, marked respectively Exhibit No. 1 and Exhibit No. 2, annexed to the deposition of José Ramon Buelna taken in this case, and state whether you believe the signatures of José Ramon Buelna, Man'l Rodriguez and J. L. Majors, attached to the said Exhibit No. 1, are the genuine signatures of the said persons, and also state whether the signature of Henry F. Parsons, deputy recorder of Santa Cruz county, is believed by you to be his genuine signature, and why you so believe.

Answer. I have examined the said Exhibits No. 1 and No. 2, and

believe the signatures of the said persons, where they respectively occur in the said exhibits, to be their genuine signatures, having seen them all write and sign their names and being acquainted with their handwriting.

6th question. Look at the documents now shown you and
25 marked Exhibit No. 1 and Exhibit No. 2 and Exhibit No. 3, respectively, and herein exhibited, and state whether you believe the signatures of José Arana, Man'l Jimeno, Robert King, W. Blackburn, Isaac Graham, Alexander Rodriguez, Manuel Rodriguez, Juan Lorenzaun, and Juan Gonzales, where they severally and respectively occur on the said Exhibits No. 1, No. 2 and No. 3, to be the true and genuine signatures of said persons, and why you so believe.

Answer. I have examined the Exhibits No. 1, No 2 and No. 3, and believe the signatures of all the said persons, where they severally and respectively occur therein, to be their true and genuine signatures, being acquainted with their handwriting and signatures and having seen them all write and sign their names. My own genuine signature appears in the said Exhibit No. 1.

The said document marked Exhibit No. 1 was archived by me in my office as alcalde in Santa Cruz.

7th question. How long have you lived in the present county of Santa Cruz?

Answer. I have lived in said county ever since the year 1822.

JOSE BOLCOFF.

Subscribed and sworn to before me the 21st day of June, A. D. 1855.

S. B. FARWELL, *Com'r.*

Filed in office June 21st, 1855.

GEO. FISHER, *Sec'y.*

26 *Deposition of John C. Pelton.*—747.

UNITED STATES OF AMERICA,
State of California, ss:

SAN FRANCISCO, *July* 7, 1855.

This day, before Com'r R. Aug. Thompson, came John R. Pelton, a witness on behalf of the claimants, in cases No. 747 on the docket, who, being sworn, deposed as follows:

Questions by Capt. Cunningham, U. S. law agent, present.

1st question. What is your name, age, and place of residence?

Answer. John C. Pelton; my age, 29 years; and I reside in San Francisco; I am a school teacher.

2d question. Are you acquainted with E. W. Farnham, Thomas Russell, José Ramon Buelna, and José Arena, of Santa Cruz? State what you know of the lands owned by said Eliza W. Farnham, widow of Thomas J. Farnham; when did you live on said ranch; what was your occupation while there; what you know of the titles to said land

and what was the general report concerning the title of said Buelna. Did you ever know of any adverse Spanish or Mexican claim to the said land?

(Question and answer objected to by U. S. law agent as hearsay.)

27 Answer. I am acquainted with them all. I know that I fenced the document marked Exhibit No. 1, to depo. of José Bolcoff, and cultivated two tracts of land, owned and occupied by Mrs. Farnham, aforesaid, during the latter part of 1852 and 1853. I saw June 21, 1855, while I lived on said land, also the document marked K, at the same time.

I understood from Major Farnham that he purchased one tract from Arena, and that he (Graham) had conveyed to Mrs. Farnham.

The document marked "Exhibit No. 2," annexed to depo. of José Bolcoff, June 21, 1855, now shown me, I also recognize as one tract that I saw, while I resided on said land, in the possession of said Farnham.

I learned from the residents of Santa Cruz that the title papers to one of said tracts, known as the Buelna tract, was burned in the house of said Buelna.

I saw the site of said house. I never heard of any Spanish or Mexican claim adverse to this, except just before I left I understood that the Italian's claim slightly overlapped this one. I knew all her business, and I and my family occupied her house with her.

The U. S. law agent declines to cross-examine the witness.

J. C. PELTON.

28 Subscribed and sworn to before me this 7th July, 1855.

R. AUG. THOMPSON, *Com'r.*

Filed in office July 7, 1855.

GEO. FISHER, *Sec'y.*

Depo. of Isaac Graham.—747.

UNITED STATES OF AMERICA,
State of California, ss:

SAN FRANCISCO, *July* 10, 1855.

This day, before Com'r S. B. Farwell, one of the commissioners to ascertain and settle the private land claims in said State, came Isaac Graham, a witness in behalf of the claimant, in case No. 747 on the docket, who, being sworn, deposed as follows:

The U. S. law agent is present.

Questions by Mr. Cunningham for claimant.

1st question. What is your name, age, and place of residence?

Answer. My name is Isaac Graham; my age is 55 years, and I reside in the county of Santa Cruz, where I have lived ever since

29 the year 1841, in the month of July.

2d question. Are you acquainted with José Arena, José Ramon Buelna, Eliza W. Farnham, the widow of the late Thomas J. Farnham; and were you acquainted with the late Thomas J. Farnham?

Answer. I am acquainted with the three persons first named, and was acquainted with the said Thomas J. Farnham.

3d question. State what you know concerning the occupation of certain land in Santa Cruz county by the said Burlna and Arena, the titles thereto, and the sale thereof, to the said Thomas J. Farnham, or to his said widow, Eliza W.

Answer. I was interpreter when John Waldrip bought a certain piece of land from José Arena, which is the same tract of land sold to me by the said Waldrip, which deed of conveyance to me is filed in this case. I knew said Arena on the said land in the year 1842 or 1843. He then had a house on the place, and lived in it with his family. He had fifteen or twenty acres enclosed and planted.

About the same time the said Ramon Buelna lived on an adjoining piece of land, on which he had a saw pit and a house, and lived there with his family.

The said Buelna sold his said piece of land to the said late Thomas J. Farnham, for which I myself paid the greater part of the
30 price of it to said Buelna, and I bought that of the said Arena from Waldrip, and gave it to the said Farnham a short time after it was conveyed to me, probably a day or two, or it may have been two or three months.

The said Farnham took possession of the said parcels of land very soon after I gave him that conveyed to me by said Waldrip, and remained in the peaceable possession thereof until he died.

ISAAC GRAHAM.

Subscribed and sworn to before me this 10th day of July, A. D. 1855.

S. B. FARWELL, *Com'r.*

Filed in office July 10th, 1855.

GEO. FISHER, *Sec'y.*

31 *Depo. of Man'l Rodriguez.*—747.

UNITED STATES OF AMERICA,
State of California, ss:

SAN FRANCISCO, *July* 17, 1855.

This day, before R. Aug. Thompson, one of the commissioners to ascertain and settle the private land claims in said State, came Man'l Rodriguez, a witness in behalf of the claimant in case No. 747 on the docket, who, being duly sworn, deposed as follows:

The associate law agent is present.

Questions by Capt. Cunningham for claimant.

1st question. What is your name, age, and place of residence?

Answer. My name is Manuel Rodriguez; my age is 37 years, and I reside in the county of Santa Cruz.

2d question. Do you know José Ramon Buelna and Eliza W., widow of the late Thomas J. Farnham, and did you know the said Thomas J. Farnham, deceased?

Answer. I do know the three persons first named, and I also know the said Thomas J. Farnham, deceased.

3d question. State what you know of the title of José Ramon Buelna to a piece of land called "Mesa del Ojo de Agua," or "Aguas
32 del Arco," and how do you know it?

Answer. In the year 1842 I saw in the possession of said Ramon Buelna, in the town of Santa Cruz, before José Mellus and William Blackburn, a petition made by said Buelna to the prefect, Don José Ramon Castada, bearing upon the same sheet of paper a report of the administrator of the mission of Santa Cruz, Juan Gonzales, and a decree of concession signed by the said prefect, Estarada.

The said Mellus and Blackburn had the different titles in the immediate neighborhood presented to them for the purpose of examining officially the merits of the said title of Buelna, and they called on me to read the papers that were presented from such examination. I remember that the conclusion arrived at was, that Buelna's title was valid.

4th question. Do you know where the papers to which you have just referred are now, or do you know by report or otherwise what became of them?

Answer. I do not know, nor have I any information of where the said papers are At the time said Buelna sold the said land described in his aforesaid petition, I drew up the instrument of conveyance to the said Thomas J. Farnham, deceased; and the said Buelna agreed to deliver his title papers to the said vendee, but it was not done, however, at the time of executing the deed by they were re-
33 tained until the purchase money should be paid.

5th question. Look at the document now shown you, marked "Exhibit No. 1," annexed to the depo. of José Ramon Buelna, June 20, 1855, and state what that document is.

Answer. I have examined the said document, and I find it to be the same instrument of conveyance from said Buelna to said Farnham referred to in my last answer as having been written by me. Since reflecting, I wish to state that I should have said 1846 instead of 1842, in my answer to the 3d question herein, as the time the examination referred to therein was had.

6th question Please state what you know of the title of José Arena to the "Portrero de San Pedro Regulado?"

Answer. I saw in the possession of the said Arena, at the time he sold the said Portrero de San Juan Regulado to one John Waldrip, the petition of the former for said place, and a grant thereof to him signed by Manuel Jimeno, but I cannot state the date of said sale.

7th question. Look at the documents now shown, respectively marked Exhibits, No. —, to depo. of José Bolcoff, June 21, 1855, Exhibit "No. 2," and Exhibit "No. 3," annexed to the same deposition on the same day, and state what signatures thereon you are acquainted with, whether they are genuine, and also your means
34 of knowledge.

Answer. I have examined the said three documents. I am acquainted with the signatures of José Arena, José Bolcoff, and Manuel Jimeno, on No. 1; those of José Arena, Robert King, and W. Blackburn, on "No. 2," all of which I believe to be the genuine signatures of said persons, having seen them all write.

The signatures of José Arena, Isaac Graham, Alejandro Rodriguez, Juan Lorenzano, and Juan Gonzales, on "No. 3," I know to be their genuine signatures, because I saw them all sign the said document, the body of which is in my own handwriting, and signed by me.

8th question Where is the Villa de Branceforte situated?

Answer. It is situated on the opposite side of the river from the mission of Santa Cruz, and is comprehended in the present town of Santa Cruz.

The asso. law agent present, and declined to cross-examine witness.

MAN'L RODRIGUEZ.

Subscribed and sworn to before me this 17th day July, A. D. 1855.

R. AUG. THOMPSON, *Com'r.*

Filed in office July 18, 1855.

GEO. FISHER, *Sec.*

35

[Here follows map marked original, page 36.]

38 *Deposition of J. R. Snyder.*—747.

UNITED STATES OF AMERICA,
State of California, ss:

SAN FRANCISCO, *July* 23*d*, 1855.

This day, before S. B. Farwell, one of the commissioners to ascertain and settle the private land claims in said State, came J. R. Snyder, a witness in behalf of the claimant in case No. 747 on the docket, who, being duly sworn, deposed as follows:

The U. S. associate law agent present.

Questions by Mr. Cunningham, for claimant.

1st question. What is your name, age, and place of residence?

Answer. J. R. Snyder; 42 years old; San Francisco.

2d question. Look at the map now shown you, marked "K," and state if you know who made the survey therein set forth; if yea, when was said survey made?

Answer. The survey was made by me, and the sketch shown me and marked as aforesaid was also made by me. Said survey was made for Mr. T. J. Farnham. I think the survey was made in the year 1847. The land is located in Santa Cruz county, immediately back of the mission of Santa Cruz, in the bottom lands. At the time I came to the country, about the year 1845, or 1846, there was
39 a person living on this land by the name of Weeks. I mean to say that said Weeks lived on one side of the creek, which was

the boundary of the land. I do not know on which side he lived. At the time I made the survey, Farnham had men at work cultivating the land.

Cross-examined by U. S. law agent.

1st question. By what were you guided in making said survey?

Answer. I was guided entirely by the direction of said Farnham, who accompanied me while making it, who claimed said land.

2d question. Had you ever seen the deseño or grant of said land, prior to your survey?

Answer. I had not seen the grant, and the deseño which I saw was in the hands of Weeks, but whether it was the original design or not I cannot say. It was a map of the land.

I. R. SNYDER,

Subscribed and sworn to before me this 23d July, 1855.

S. B. FARWELL, *Com'r.*

Filed in office July 23d, 1855.

GEO. FISHER, *Sec'y.*

40 *Depo of Sarah Wood.*

UNITED STATES OF AMERICA,
State of California, ss:

SAN FRANCISCO, *October* 11, 1855.

This day, before Alpheus Felch, one of the commissioners to ascertain and settle the private land claims in said State, came Sarah Wood, a witness on behalf of the claimant, in case No. 747 on the docket, who, being duly sworn, deposed as follows:

Questions by Mr. Cunningham, attorney for claimant.

Question 1st. Please state your name and place of residence.

Answer. My name is Sarah Wood, and I reside in San Francisco, Cal'a.

2d question. Were you acquainted with the late Thomas J. Farnham, and his family?

Answer. I was.

3d question. State how long you have known them, and where he died, and what are the names of his wife and children.

Answer. I have known them several years; I knew them before they moved to California. He came first, and she came with their children afterwards. I think it was in 1849 that she came. He died before she arrived here. The name of his wife is Eliza W. Farnham. He left two children named Charles and Eddie. Eddie died in the summer of 1854, I think in the month of July, but am not cer-
41 tain as to the month. Mr. Farnham's mother was a half sister of mine. Mr. Farnham left no other children than those above mentioned. Mrs. Farnham lives in Santa Cruz, to the best of my knowledge, at the present time. Eddie was about ten years old at the

time of his death. The surviving son is about fourteen years of age at the present time.

SARAH WOOD.

Mr. Blanding, associate law agent, was present at the taking of this deposition, but declined to interrogate the witness.

Subscribed and sworn to before me this 11th day of October, A. D. 1855.

ALPHEUS FELCH, *Com'r.*

Filed in office Octo. 11, 1855.

GEO. FISHER, *Sec'y.*

42 *Deposition of Edw'd Bryant.*

UNITED STATES OF AMERICA,
State of California:

SAN FRANCISCO, *Oct.* 11, 1855.

This day, before Alpheus Felch, one of the commissioners to ascertain and settle the private land claims in said State, came Edward Briant, a witness in behalf of the claimant, in case No. 747 on the docket, who, being duly sworn, deposed as follows:

Questions by Mr. Cunningham, attorney for claimant.

1st question. Please state your name, age, and place of residence.

Answer. My name is Edward Briant; my age is fifty-five years; and I reside in San Francisco, California.

2d question. Were you acquainted with the late Thomas J. Farnham and his family? If yea, state where and when he died, and who are his heirs and legal representatives.

Answer. I was not acquainted with said Thomas J. Farnham; he died before I came to this country. I arrived in San Francisco in December, 1849, and Mrs. Farnham, the widow of said Thomas J. Farnham, came with us. Their children were here before she came out. I understood that said Thomas J. Farnham died in an adobe house belonging to a Mr. Mowry, at the corner of Broadway and Powell
43 streets, in San Francisco. He left a widow, above referred to, whose name is Eliza W. Farnham, and two children. The youngest of the children is dead; the other, to the best of my knowledge, is still living. The name of the surviving child is Charles. The deceased child was about ten years of age at the time of his death.

Mrs. Farnham now lives at Santa Cruz.

EDWARD BRIANT.

Mr. Blanding, associate law agent, was present at the taking of this deposition, but declined to interrogate the witness.

Subscribed and sworn to before me this 11th day of October, A. D. 1855.

ALPHEUS FELCH, *Com'r.*

Filed in office Oct. 11, 1855.

GEO. FISHER, *Sec'y.*

(Here follows map, marked original, page 44.)

46 "C."

Petition.—Grant.—Approval to José Arana, 500 + 600 vs.

Sor. Juez de Paz:

José Arana ciudadano Mejicano ante v. s, como mejor proceda en derecho digo; que teniendo una numerosa familia que mantener y carreciendo de un padeze de terra en que poner los para dedicar me á la agricultura, siendo en que recurso con que cuenta paro substantia y hallandose en la demarcacion de este establecimiento un terreno conocido con el nombre de Potrero y Rincon de San Pedro Regalado que tienne de estension quinientos varas de este á oeste y siescientos de sur á norte como puede verse pr. el diceño que a compaño, el cual no se halla ocupado por las yndiguenas ne por ningun oho particular pr. que siempre, se ha considerado como el menor aproporcionado y aperposito pr. siembras en comparacion don los muchas que abunda esta parte del departamente en consequencia y pr. lo espuesto espero de v. pe siroa conceda lo en propriedad admitiendo esta solicitud en papel comun por falta del sellado que corresponde. Gracia que espero jurando no ser de malicia y lo necessario.

Santa Cruz Agosto 3 de 1842.

JOSE AUZAR.

Por cuanto Don José Arana se ha echo acredor pr. obtener terreno q. pretende el cual se haga valdio y usando de las facultades que me har concedido el gobierno departmental para prometer la ocupacion de terrenos baldios de este establecimiento, teuzo por comb'te presentade que ocupe el terreno que presente. En estencion quinientos varas largo y ancho siescientos varas siempre esta medida
47 llegase a lo que hubiere baldio sui ajudicar las concesiones anteriores y sujectandose a la aprobacion del gobierno departmental.

S'ta Cruz 15 Agosto de 1843.

JOSE BALCAFF.

La ocupacion del terreno a la que se refiere el precurso que antecede lo apruveo y la declaro pertenecer en propriedad a Dn. José Arana en conformidad a las leyes de colonizacion, sujetandose a la estencion de lo que hubiere valdio segun manifrista el Juez de Santa Cruz. El Sr. Don Manuel Jimeno primer vocal de la junta departamental en ejereicio del gobierno de Californias asi lo mando, decreto y firmo de que doy fee.

MANUEL JIMENO.

Exhibit No. 1, annexed to deposition of José Balcaff, June 21, 1855.

Exhibited in the deposition of Manuel Rodriguez, July 17, 1855.

Recorded in book of rec. of evidence, vol. XIV, pages 240 and 241.

Exhibit No. 1, annexed to depo. of José Balcaff, June 2, 1855.

Filed in office April 28, 1855.

GEO. FISHER, *Sec'y.*

48 *Petition.—Translation of petition and grant.*

To his honor the Juez de Paz:

I, José Arena, a Mexican citizen, that I may proceed in the best manner according to law, do declare before your honor, that having a numerous family to maintain, and being in want of a piece of land whereon I may follow the pursuits of agriculture—the only means on which I depend for subsistence; and there being within the limits of this settlement a small lot of land known by the name of the "Portrero y Rincon de San Pedro Regalado," which is in extent five hundred varas from east to west, and six hundred varas from south to north, as will be seen by the accompanying map, which land is found to be occupied neither by native Indiansn or by any other person, because it has always been considered the least fit for cultivation, in comparison with the numerous tracts which abound in this part of the department:

Therefore, and for the reasons above stated, I hope your honor will be pleased to grante me the ownership of the same, admitting this my petition written on common paper, for want of the corresponding stamped.

I hope to receive this favor, swearing that I have no evil motive, and that I will comply with the necessary formalities.

S'ta Cruz, August 3d, 1842.

(Signed) JOSÉ ARENA.

49 *Grant.*

Inasmuch as D'n José Arena has proved himself worthy and entitled to obtain the land he asks for, which is found to be vacant: therefore, using the authority conferred upon me by the departmental government, to permit the occupation of vacant lands in this settlement, I deem it proper to permit him to occupy the land which he solicits, in extent of five hundred varas wide and six hundred varas long, always provided that this measurement will extend to what may be vacant land, without prejudice to former grants, and being subject to the approval of the departmental government.

S'ta Cruz, 15th August, 1842.

(Signed) JOSÉ BALCAFF.

Approval.

I approve the occupation of the land to which the foregoing permit refers, and I declare the said land to be the property of Don José Arana, in conformity with the laws of colonization, confining himself to the extent of what may be vacant land, according as the judge of S'ta Cruz may make it appear.

His honor Don Manuel Jimeno, presiding member of the departmeutal junta, in the administration of the government of California, has thus ordained, decreed, and confirmed.

I attest.

(Signed) MAN'L JIMENO.

Filed in office April 28, 1855.

GEO. FISHER, *Sec'y.*

153

50 *Copy of original petition of José Ramon Buelna from the office of the secretary of state of California.*

Sor. prefecto de la 1a districto:

Ramon Buelna, vecino de la villa de Branceforte ante V. S. con el mejor halla lugar en derecho se presenta y dice que hallandose a virtud de poder fomentar la agricultura para el sosteñer en su familiá, solicita que V. S. tenga a bien proporcionar lo cuatro suertes de tierra en la ex-mision de Santa Cruz en el nacimiento que de las largas Ramon he tenido de largos años para el deseño que acompaño. Por tanto a V. S. rendidamente suplica se digne aceder á favor del interesado de de lo que recibiré gracia.

Pueblo de San Juan de Castro Abril 29 de 1852.

JOSE RAMON BUELNA.

STATE OF CALIFORNIA, *Office of the Secretary of State.*

This is to certify that the foregoing is a correct copy of an instrument on file among the Spanish archives of this office.

[Seal of the State of California.] Witness my hand and seal of State, at the city of Sacramento City, this the seventh day of July, A. D. 1855.

J. W. DENVER,
Sect'y of State.
By WM. N. R———,
Deputy.

Filed in office July 16, 1855.

GEO. FISHER.

Recorded in book of records of ev., vol. XVI, pages 242 and 243.

51

52 *Translation of copy of original petition of José Ramon Buelna.*

To his honor the prefect of the first district:

Ramon Buelna, a resident of the village of Branceforte, before your honor, as in duty bound, appears and says, that finding himself in a favorable position to follow the pursuits of agriculture for the maintainance of his family, he prays your honor will consent to allot to him four suertes of land in the ex-mission of Santa Cruz, at the source of the waters known as ("del arco") the springs of the Bow, agreeably to the amended map.

Wherefore he humbly prays your honor will grant the same to the interested party, by which he will favor.

Pueblo de San Juan de Castro, April 29, 1839.

(Signed) JOSE RAMON BUELNA.

Filed in office July 10, 1855.

GEO. FISHER, *Sec'y.*

53 E.

54 *Assignment from Arana to* ———, *July* 17, 1847.

Digo llo que ha bajo subscribe que eredo mi derecho que tengo en el terreno que hactualmeute poseo al C. Juan Guals con casa cerras y todo lo demas que espresa mi titulos de cullo terreno queda obligado dicho Juan en ese lugar 300 pesos por el en efectos.

Como tambien queda hobligado el que subscribe ha la lugar las documentos por donde constique en tenido la propriedad es legal, que si resultarse haleuse, estraviado las documentos por tener los en Monterey posecion de los testigos que la propriedad es una y no desegnan otro.

Cullo terreno se compone de largos ochocientos varas de ancho quinientos poco mas ó menos.

Y para constancia lo a firmamos anté dos testigos.

JOSÉ ARANA.

John Balcaff, testigos P Isaac Prudon Mejicano, Rodrigues
MANUEL RODRIGUEZ.

Digo yo que Juan Gulrep que esedo el derecho que tenzo en el terreno que se menciona lu esta obligacion al C. Isaac Grelup y para que puedo de todo treinpo hacer uso de es us esrablecimientos lo firnid'lon dos testigos.

Santa Cruz, Julio 17 de 1844.

Entregue Juan Gulares y p'r testigo lo firmo receive Isaac Graham.

JUAN LORENZANA.

Testigos: JUAN GOMEZ.

55 Exhibited in the deposition of Manuel Rodriguez, July 17 de 1855.

Recorded in book of records of evidence in vol. XIV, pages 241 y 242.

Exhibited No. 3, annexed to the deposition of José Balcaff, June 21, 1855.

Filed in office April 28, 1855.

GEO. FISHER, *Sec'y.*

56 E.—*Translation.*

I, the undersigned, hereby declare that I grant to the citizen Juan Guala, the right which I have in the land now actually in my possession, together with the house, fences, and everything else which my title recites, for which land the said Juan remains bound to pay 300 dollars in goods.

In like manner, the undersigned remains bound to deliver up the document by which the legal ownership of the land can be established; and if the documents should happen to be missing on account of their being in Monterey, I will prove by witnesses that the property be-

longs to me, and no other person ; which land is in extent eight hundred varas long and five hundred wide, a little more or less.

In witness whereof we affix our names before two witnesses.

(Signed by) JOSE ARANA.
JOHN + WALDRIP.

Witnesses: ISAAC GRAHAM.
A. BALCAFF.
M. RODRIGUEZ.

I, John Waldrip, declare that I grant to the citizen Isaac Graham the right which I have in the land mentioned in this obligation ; and in order that he may be able to avail himself of it, I affix my
57 signature in the presence of two witnesses.

S'ta Cruz, July 17, 1847.

I delivered. JUAN GUALREP.
I received. ISAAC GRAHAM.

Witness: JUAN LORENZANO.
Witness: JUAN GONZALES.

Filed in office April 28, 1855.

GEO. FISHER, *Sec'y.*

58 G.

Agreement to convey Jose Ramon Buelna to Tho's J. Sherman, Sept. 25, 1847.

Exhibit No. 1, *annexed to depo. of José Ramon Buelna, June* 20, 1855.

Digo llo el que a bajo subscribe que me hobligo ha entregar mi titulo de mi terreno y señalar los linderos de dicho terreno cuyo terreno de entregar al Sr. Dn. Tomas y Farnham en todo el mes q. entre por un trato que tenemos entre hambos dos, siendo asi que conforme Dn. Tomas me entregue siendo garancia y nuevo peso en peso en plata al mismo tiempo se sirre los papeles del terreno que son ochocientos varas quadradas y si resultan menos de lo que verio el titulo se rebajara al precio conforme a lo que quede en favor.

Y para constancia lo rubrique en lo doy en St'a Cruz a 28 de Febrero de 1841.

JOSE RAMON BUELNA.

Testigos:
MANUEL RODRIGUEZ.
A. S. MEYERS.

Filed in office April 28, 1855.

GEO. FISHER, *Sec'y.*

59
60 *Translation of "C."*

[Translation.]

I, the undersigned, declare that I bind myself to deliver up the title to my land, and to mark out the boundaries of said land, which land

I am to deliver to Señor Dn. Thomas J. Farnham, in all next month, agreeably to a contract existing mutually between us, it being understood that Dn Tomas is to pay me one hundred and forty-nine dollars at the same time that he may receive the documents relating to the land, which is in extent eight hundred varas square ; and if the quantity prove to be less than that expressed in the title, the price shall be correspondingly diminished.

In witness whereof, I affix this my signature, at S'ta Cruz, Sept. 28th, 1847.

(Signed) JOSE RAMON BUELNA.

Witness:
MANUEL RODRIGUEZ.
J. L. MAJORS.

Filed in office April 2d, 1855.

GEO. FISHER, *Sec'y.*

62 *D.—José Arana to Thos. Farnham.—Deed.*

Know all men by these presents that I, the undersigned, have bargained and sold unto Thomas J. Farnham all my right, title, and interest in and to all that certain tract of land, it being 800 varas in length and 500 varas in width, situate in the portrero, lying north of the mission buildings in Santa Cruz, Alta, California, and make this my full and unconditional deed of conveyance of the same, it being in area as above a little more or less.

Santa Cruz, Oct. 4, 1847.

JOSE ARANUS.

Witnesses: ROBERT KING.
W. BLACKBURN.

Filed in office April 28, 1855.

GEO. FISHER, *Sec'y.*

A.—Deed.—José Ramon Buelna to Eliza W. Farnham.

CALIFORNIA, *Santa Cruz County:*

This indenture, made and entered into this nineteenth day of September, A. D. eighteen hundred and fifty-one, between José Ramon Buelna, of said county, of the one part, and Eliza W. Farnham, widow of the late Thomas J. Farnham, also of said county, of the other part, witnesseth : That the said José Ramon Buelna, for and in consideration of the sum of one hundred and forty-nine dollars, to
him in hand paid at and before the sealing and delivery of
63 these presents, the receipt whereof is hereby acknowledged, has
granted, bargained, sold, and conveyed, and by these presents grants, bargains, sell, and convey, unto the said Eliza W. Farnham, as administratrix of the estate of the said Farnham, deceased, and unto her heirs and assigns, a certain parcel of land situate in the county aforesaid, containing eight hundred varas square, (800 varas square,)

and bounded and described as follows, viz: commencing at a stake near an oak tree marked "F," and running thence south forty-five and one-quarter degrees west, twenty-nine and one-half chains; thence north forty-one and one-half degrees west, thirty-six and one-tenth chains; thence north forty-five and one-quarter degrees east, twenty-nine and one-half chains; thence south forty-one and a half degrees east, thirty-six and one-tenth chains, to the place of beginning; the said tract of land being embraced in a survey number one hundred and sixty-five, of the county surveyor of said county, together with all and singular the privileges and appurtenances thereunto belonging.

To have and to hold the said granted premises to her, as aforesaid, and to her heirs and assigns forever. And the said José Ramon Buelna, for myself, my heirs, executors, and administrators, do covenant with the said Eliza W. Farnham that I will, and my executors shall, warrant and defend the same to the said Eliza W. Farnham, her heirs and assigns forever, against the lawful claims of all persons.

64 In testimony whereof, I, the said José Ramon Buelna, have hereunto set my hand and seal this the day and year above written.

Signed, sealed, and delivered in the presence of the subscribing witnesses.

The words, "and appurtenances," interlined before signing.

JOSE RAMON BUELNA. [SEAL.]

Witness:

D. J. BENNET.

D. G. GREGORY.

STATE OF CALIFORNIA, *County of Santa Cruz:*

On the 19 day of September, A. D. 1851, before me, Peter Tracy, county recorder of Santa Cruz county aforesaid, personally came José Ramon Buelna, known to me to be the person described in the foregoing conveyance, and who acknowledged to me that he executed the same freely and voluntarily, and for the uses and purposes therein mentioned.

Witness my hand and private seal, (there being no official seal provided at office,) this 19 day of September, A. D. 1851.

PETER TRACY, *Recorder.*

Filed for record by Mrs. Farnham on the 19th day of Sept., 1851, at noon; and at request of said Mrs. Farnham it was recorded.

PETER TRACY, *Recorder.*

65 SANTA CRUZ COUNTY, *California.*

I hereby certify that the foregoing is a correct copy of deed of conveyance now on record in my office, book of deeds, volume first, and pages 200 and 201, in Santa Cruz, in Cal'a.

Witness my hand and official seal this the 26th day of Feb., A. D. 1853.

PETER TRACY,
Recorder of St'a Cruz Co.,
By HY. F. PARSONS.

66 *Deed.—José Arena to Eliza W. Farnham.*

This indenture, made the twenty-sixth day of March, in the year one thousand eight hundred and fifty-five, between José Arena, of the town of Santa Cruz, State of California, of the first part, and Eliza W. Farnham, of the town and State aforesaid, of the second part, witnesseth:

That the said party of the first part, for and in consideration of the sum of fifty dollars, to him in hand paid by the said party of the second part at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, hath remised, released, and quitclaimed, and the said party of the second part, and to her heirs and assigns forever, all that certain piece or parcel of land lying in the portrero north of the mission of Santa Cruz, and bounded on the north by land owned by John Green, on the east by lands owned by Robert King and Hiram James, and on the north and west by the foot of the hill and land now or formerly owned by Carlos Rousillan, being in extent six hundred varas in length, by five hundred in breadth, more or less, together with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof; and also all the estate, right, title, interest, property, possession, claim, and demand whatsoever, as well in law as in equity, of the said party of the first part, of, in,
or to the above-described premises, and every part and parcel
67 thereof, with the appurtenances. And the said party of the first part, for himself, and his heirs, executors, and administrators, doth covenant and agree to and with the said party of the second part, her heirs, executors, and administrators, that he hath not made, done, committed, executed, or suffered any act or acts, things or things, whatsoever, whereby or by means whereof the above mentioned and described premises, or any part or parcel thereof, now or at any time hereafter, shall or may be impeached in any manner or way whatever.

In witness whereof, the said party of the first part has hereunto set his hand and seal the day and year first above written.

JOSE ARANA. [L. S.]

Sealed and delivered in presence of—
C. D. ELDEN.

STATE OF CALIFORNIA, *Santa Cruz County, ss:*

On this 26th day of March, in the year of our Lord one thousand eight hundred and fifty-five, before me personally came the above-named José Arena, to me known to be the individual described in and who executed the above conveyance, and acknowledged that he executed the same for the uses and purposes therein mentioned.

JOHN NUTTER,
Justice of the Peace.

Recorded in book of records, vol. 3, page 70 of the records
68 of the office of county recorder in and for Santa Cruz county, Cal'a, June 8, 1855.

Attest.

PETER TRACY, *Recorder*,
By HY. T. PARSONS, *D. R.*

Filed in office July 24th, 1855.

GEO. FISHER, *Sec.*

Eliza W. Farnham to Thos. Russell—"Deed."

This indenture, made the twenty-third day of March, in the year one thousand eight hundred and fifty-two, between Eliza W. Farnham, of the first part, and Thomas Russell, both of Santa Cruz county, State of California, of the second part, witnesseth: That the said party of the first part, for and in consideration of the sum of seven thousand dollars, lawful money of the United States of America, to her in hand, paid by the said party of the second part, at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, has remised, released, and quitclaimed, and by these presents do remise, release, and quitclaim, unto the said party of the second part, and to his heirs and assigns forever, all those tracts or parcels of land lying and being in the county of Santa Cruz, State of California, and near the mission of Santa Cruz, the same being the undivided half of the following described lands: One commenc-
69 ing at a stake near a creek and running thence south 18 degrees 45 minutes east, 320 yards south, 16° 45′ E, 603 yards; thence N. 67° 15′ west, 74 yards; thence N. 74° W., 136 yards; thence N. 68° 50′ W., 146 yards; thence N. 75° W., 275 yards; thence N. 29° W., 184 yards; thence N. 22° 30′ W., 222 yards; thence N. 80° E., 183 yards; thence N. 210 yards, to the creek; thence S. 72° 30′ E., 74 yards; thence S. 60° E., 44 yards; thence S. 73° 45′ E., 102 yards; thence S. 41° 45′ E., 30 yards; thence S. 80° E., 47 yards; thence S. 76° 30′, 44 yards, to the mill; thence S. 84° 45′ E., 242 yards, to the place of beginning. Another being the same described in a deed of conveyance from Ramon Buelna to the said party of the first part, and on record in the archives of the county of Santa Cruz. Together with all and singular the tenements, hereditaments, and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof—one-half of the rents of this year excepted—and, also, all the estate, right, title, and interest, property, possession, claim, and demand, whatsoever, as well in law as in equity, of the said party of the first part, of, in, and to the above-described premises, and every part and parcel thereof, with the appurtenances.

To have and to hold all and singular the above mentioned and described premises, together with the appurtenances, unto the said party of the second part, his heirs and assigns forever.

70 In witness whereof, the said party of the first part has hereunto set her hand and seal the day and year first above written.

ELIZA W. FARNHAM. [SEAL.]

Sealed and delivered in the presence of, (the words, "one-half of the rents of this year excepted," interlined before execution)—
GEO. W. CRANE.

STATE OF CALIFORNIA,
County of Santa Cruz, ss:

On this the 23rd day of March, A. D. 1852, before me, Peter Lacey, clerk in and for the county and State aforesaid, personally came Eliza W. Farnham, a person known to me, and whose hand appears to the foregoing conveyance, and who acknowledged that she made, signed, sealed, and delivered the same, freely and voluntarily, for the uses and purposes therein mentioned, and requested that the acknowledgment be made.

In testimony whereof, I, Peter Lacy, clerk as aforesaid, have hereunto set my hand and affixed my private seal, there being no official seal provided. All done at office, the day and year last above mentioned. [SEAL.]

PETER LACY, *Clerk*,
By T. WRIGHT, *Dep'ty.*

71 I hereby certify that the foregoing is recorded in the book of deeds, vol. 1, pages 297, 298, of the records of the recorder's office of Santa Cruz county, California.

[SEAL.] PETER TRACY, *Recorder.*

Filed in office March 2d, 1858.

GEO. FISHER, *Sec'y.*

72 *Opinion of Com. R. Aug. Thompson.*

THOMAS RUSSELL *vs.* THE UNITED STATES. } Lands in Santa Clara co.

The claimant has produced no evidence of any right or title derived from the Spanish or Mexican governments, nor any testimony going to show that the lands claimed were ever granted by either of these authorities. The claim is therefore rejected.

Filed in office Jan'y 30th, 1855.

GEO. FISHER, *Sec'y.*

Decree.

THOMAS RUSSELL *vs.* THE UNITED STATES. } Lands in Santa Clara co.

In this case, on hearing the proofs and allegations, it is adjudged by the commissioner that the claim by the petitioner is not valid,

and it is therefore decreed that this application for a confirmation thereof be denied.

ALPHEUS FELCH.
R. AUG. THOMPSON.

73 THOMAS RUSSELL *et al.*
vs.
THE UNITED STATES.

This is a claim by Thomas Russell and the widow and heir-at-law of Thomas J. Farnham, to two tracts of land situated in the county of Santa Cruz, and near the mission of the same name: the first being a tract 800 varas square, and the second, by certain metes and bounds, laid down and described in their petition.

The petition was filed on the first instance in the name of Thos. Russell alone, but was subsequently, on motion of the claimant by his counsel, and with the assent of the U. S. associate law agent, so amended as to make the last-named petitioners claimants with him.

The petitioners allege that the first-named tract was granted by José Ramon Estrada, then exercising the functions of prefect, to one José Ramon Buelna, some time previous to the year 1838.

The original title to that tract is not produced, and it appears from the evidence in the case that it was destroyed by fire with the residence of the grantee, some time in the year 1846 or 1847.

An attempt is made to supply the deficiency by secondary evidence, but the testimony on this point is very vague and indefinite.

74 The grantee Buelna, swears that he received from Governor Alvarado, in the year 1839, a permission to occupy the premises until the meeting of departmental junta, when he should receive a title in form.

That he received the title in the year 1842 from the prefect, José Ramon Estrada, signed by Gov. Micheltorena.

That his said title was afterwards examined by the authorities, William Blackburn, J. L. Majors, and Man'l Rodriguez, who pronounced his title good, and that he could sell.

Rodriguez testifies that in the year 1846 he saw, in the possession of the said Buelna, a petition made by him to the prefect, José Ramon Estrada, bearing upon the same sheet of paper a report of Juan Gonzales, administrator of the mission of Santa Cruz, and a decree of concession signed by the said prefect, Estrada.

That the said title was presented to José Mellus and William Blackburn for the purpose of examining officially its merits, and that they called on him to read the papers; and he remembers that the result of such examination was, that they considered the title valid.

José Balcaff swears that in the year 1842, he being then alcalde, José Ramon Estrada addressed him a note, in which he stated that the said Buelna had a title to the said "Mesa del Ojo de Agua," and that he should not disturb him.

This is all the evidence addressed by the claimants in sup-
75 port of this grant, and it can scarcely be considered sufficient to establish the validity of the claim under it.

The witness Buelna, having conveyed the land by general warrantee to Eliza W. Farnham, one of the claimants, is clearly a party in interest, and his evidence is therefore entitled to little or no weight in consideration.

Rodriguez does not in any manner connect the title-papers which he saw with the lands now claimed; and even if they were for the same lands, it is very clear from his testimony that the grant was made by the prefect and not by the governor, as stated by Buelna. Balcaff does not pretend to have seen the title, and knows nothing of the character of the grant referred to in the note from Estrada to him.

Upon the case thus presented, we conclude, first, that the evidence is insufficient to establish the fact that a grant was made to Buelna for the lands, as claimed by the petitioners; and secondly, that if such a grant was made, it was done by the prefect. And in the absence of any testimony to show that the lands belonged to the common lands of a pueblo, to which the authority of the prefect to grant was limited, it must, according to the ruling of the commission in other similar cases, be considered invalid.

We are therefore of the opinion that the claim of the petitioners, so far as it purports to be founded on the grant to Buelna, is
76 invalid, and must be rejected.

The second tract is claimed under a grant made by Manuel Jimeno in 1842. The petitioners have filed in support of this grant an original document, the genuineness of which is established by the proofs containing, first, a petition from José Arena to the justice of the peace, praying for a grant of land in the establishment of Santa Cruz, called the "Portrero of Rincon de San Pedro Regalado," five hundred varas from east to west, and six hundred varas from north to south. Upon this petition is entered a decree of the justice, authorizing the petitioner to occupy the premises, subject to the approval of the departmental government.

This is followed by a decree of Manuel Jimeno, 1st vocal of the departmental junta, acting as governor, approving the foregoing provisional right of occupation, and declaring Don José Arena owner in property of the said lands, in conformity with the laws of colonization.

This document is clearly sufficient to invest the grantee with an equitable right to the premises, which could entitle him to a confirmation.

The present claimants derive their title from the said grantee by proper conveyances, duly proved, and filed in the case. A decree of confirmation will be entered in their favor for so much of the land claimed as is covered by said grant to José Arena.

Filed in office Oct. 23d, 1855.

GEO. FISHER, *Sec.*

77

163

78 *Decree of confirmation.*

THOMAS RUSSELL
vs.
THE UNITED STATES.

In this case, on hearing the proofs and allegations, it is adjudged by the commission that the portion of the claim of the petitioner included within the limits of the grant made by José Balcaff and Manuel Jimeno to José Arena, on the 15th of August, 1842, is valid; and it is therefore decreed that the same be confirmed to them.

The land of which confirmation is made is situated in the county of Santa Cruz, and is known by the name of "Portrero y Rincon de San Pedro Regalado," and is of the extent of five hundred varas from east to west, and six hundred varas from north to south, and described in the original petition and grant filed among the papers in the case, to which reference is made for a more particular description.

It is further adjudged that the portion of the claim of the said petitioner which they allege to be founded on a grant made by José Ramon Estrada, as prefect, and described in their petition as containing eight hundred varas square, is not valid; and it is therefore decreed that their application for a confirmation thereof be, and the same is hereby, denied.

ALPHEUS FELCH.
A. B. FARWELL.
R. AUG. THOMPSON.

Filed in office Oct. 23d, 1855.

GEO. FISHER, *Sec'y.*

79

80 *Order.*

And it appearing to the satisfaction of the board that the land hereby adjudicated is situated in the southern district of California, it is hereby ordered that two transcripts of the proceedings and of the decision in this case, and of the papers and evidence upon which the same are founded, be made out and duly certified by the secretary, one of which transcripts shall be filed with the clerk of the United States district court for the southern district of California, and the other be transmitted to the Attorney General of the United States.

81

82 OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing eighty pages, numbered from 1 to 80, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings, and of the decision of the said board, of the documentary evidence and of the testimony of the witnesses, upon which the same is founded, on file in this office, in case No. 747, on the

docket of the said board, wherein Thomas Russell is the claimant against the United States, for the place known by the name of "land in Santa Cruz county."

In testimony whereof, I hereunto set my hand and affix my private seal, (not having a seal of office,) at San Francisco, California, this eleventh day of February, A. D. 1856, and of the independence of the United States of America the eightieth.

[SEAL.]

GEO. FISHER, *Sec'y.*

Filed February 20th, 1856.

C. E. CARR, *Clerk.*

83

84 *Appeal.*

Land in Santa Cruz county, Thomas Russell, claimant.

OFFICE OF THE ATTORNEY GENERAL OF THE UNITED STATES,
Washington, 11 *Feb'y*, 1856.

You will please take notice that in the above case, decided by the commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 1st day of February, 1856, the appeal in the district court of the United States for the southern district of California will be prosecuted by the United States.

C. CUSHING,
Attorney General.

Filed June 3d, 1856.

C. E. CARR, *Cl'k*,
85 By O. MORGAN, *Dep'ty.*

86 *Claimants' notice of appeal.*

United States district court, southern district of California.

THOMAS RUSSELL AND THE HEIRS OF THOMAS W. FARNHAM, claimants,
vs.
THE UNITED STATES OF AMERICA.
} Notice.

The United States land commission to ascertain and settle private land claims in the State of California, having rendered its decision in the above case, which is designated upon the docket of said commission as number 747, against the claim and title of the said claimants to the place or lands in Santa Cruz county, forming the subject matter of said case 747, and which lands are situated in said district, notice is hereby given that it is the intention of the said claimant to prosecute their appeal from the said decision.

ROBERT SIMSON,
Claimants' Attorney.

Filed June 3d, 1856.

C. E. CARR, *Cl'k*,
87 By O. MORGAN, *Dep'ty.*

88 *Petition for review.*

In the district court of the United States for the southern district of California, city and county of Los Angeles, State of California.

THOMAS RUSSELL *et al.*, appellees,
ads
THE UNITED STATES, appellant. } Docket No. 383.—Transcript No. 747.

To the Hon'l Isaac S. K. Ogier, judge:

The petition of Pacificus Ord, a resident of said city, county, and State, attorney of the United States for the southern district of California, who petitions in this behalf for the United States, and being present here in court, in the name and behalf of the United States, represents as follows: That heretofore, to wit, on or about the 2d day of March, A. D. 1853, Thomas Russell *et al.* presented a petition to the commissioners to ascertain and settle the private land claims in the State of California when sitting as a board, claiming a tract of land in Santa Cruz county, State of California, which said petition is referred to for a description of the land claimed, a copy of which appears in the transcript hereafter referred to; that thereafter, to wit, on or about the 23d day of October, A. D. 1855, the said commissioners confirmed, in part, by final decision, the said claim of said petitioners; that thereafter, to wit, on or about the 20th day of February, 1856, a duly certified transcript of the proceedings and decision of the said commissioners in said cause, and the papers and evidence on which the said decision was founded, was filed in the
89 office of the clerk of the district court of the United States for the southern district of California, and marked No. 747, reference to which it is prayed may be had and made part of this petition; that on or about the 1st day of February, A. D. 1856, the honorable Caleb Cushing, Attorney General of the United States, received a duly certified duplicate of said transcript of the proceedings and decision of said commissioners in said cause, and the papers and evidence on which said decision was founded; that thereafter, to wit, on or about the 3d day of June, 1856, the said Attorney General of the United States filed or caused to be filed, in behalf of the United States, a notice with the clerk of said district court of the United States, that the appeal in said cause from the said decision of the said commissioners, in the district court of the United States for the southern district of California, would be prosecuted by the United States. Your petitioner further represents that the land claimed as aforesaid is situate in the southern district of California, and within the jurisdiction of this honorable court. Your petitioner further represents and insists that the said claim is invalid, and the said decision of said commissioners is erroneous and ought to be reviewed, reversed, and set aside, for many errors and imperfections of law and evidence apparent in said certified transcript of the proceedings and decision of said commissioners in said cause, filed and appealed from as aforesaid. And your petitioner

denies all and singular each and every allegation in the said petition of said claimants, presented as aforesaid to said commissioners.

90 And your petitioner further denies that the said claimants have any valid right or title to said land claimed as aforesaid, or any part thereof

And no sufficient proof having been made of the allegations in said petition to said commissioners, or in support of the said claim, no decision confirming the same should have been made by said commissioners, but the said claim should have been rejected by them. And the said claimants having no valid right or title derived from the Spanish or Mexican governments to the land claimed as aforesaid, the lawful right and title in and to the said land was acquired by, and it now belongs to, the United States by virtue of conquest and the treaty of peace, friendship, limits, and settlement between the United States and the republic of Mexico, made at the city of Guadelupe Hidalgo, February 2d, A. D. 1848.

Wherefore the said Pacificus Ord, attorney of the United States for the southern district of California, for and in behalf of the United States, by reason of the premises and in pursuance of the acts of Congress entitled "An act to ascertain and settle the private land claims in the State of California," approved March 3d, A. D. 1851, and the laws and statutes in such case made and provided, prays that the said claimants or their attorneys may be served with a copy of this petition, and that this honorable court will review the said decision of said commissioners and reverse the same, and decide on the validity of the said claim, and decree the alleged title to be invalid; with costs and general relief.

P. ORD,
Attorney of the United States for the Southern District of California.

Filed this 5th January, A. D. 1857.

C. SIMS, *Cl'k*,
p. J. H. COLEMAN, *Dep.*

91

92 *Answer of claimant.*

In the district court of the United States for the southern district of California.

THOMAS W. RUSSELL, appellant, *ads.* THE UNITED STATES, appellees. } Case No. 383, "Lands in Santa Cruz."—Transcript No. —.

Now comes the said Thomas W. Russell, by Sloan & Hartman, his attorneys, and for answer to the petition of review by said United States; filed in said case, says he admits that said lands are situated in said southern district of California; but he denies that his claim to said lands is invalid, but, on the contrary thereof, he says the same

is good and valid, and he prays the judgment of this court confirming the claim to him.

SLOAN & HARTMAN,
Atty's for Claiman.

Filed the 31st Dec., 1857.

C. SIMS, *Cl'k*,
93 p. J. H. COLEMAN, *Dept'y.*

94 *Notice of trial.*

In the district court of the United States for the southern district of California.

THOMAS W. RUSSELL, appellant, *ads.* THE UNITED STATES, appellees. } Case No. 383, for lands in Santa Cruz.—Transcript No. 747.

To the United States district attorney for the southern district of California:

SIR: Take notice that on the 4th day of January, A. D. 1858, at 11 o'clock a. m. of said day, or as soon thereafter as the same can be heard, the claimant and appellant will submit said cause to the aforesaid court for decision.

Los Angeles, December 30, 1857.

SLOAN & HARTMAN,
Att's for Appellant.

Filed this 30th December, 1857.

C. SIMS, *Cl'k.*
p. J. H. COLEMAN, *Dep'ty.*

95

96 *Order of continuance.*

Whereupon the following proceedings were had in open court, to wit:

U. S. dist. court, south. dist. Cal'a, December term, 1857.

THOS. RUSSELL, *et al.* *vs.* THE UNITED STATES. } No. 383.

JANUARY 6TH, A. D. 1858.

On motion of Sloan & Hartman, counsel for claimants, this cause is set down for hearing on to-morrow, at 11 o'clock a. m.

Order of continuance.

U. S. dist. court, south. dist. Cal'a, December term, 1857.

THOS. RUSSELL *et al.* *vs.* THE UNITED STATES. } No. 383.

JANUARY 7TH, A. D. 1858.

On motion of Sloan & Hartman, atty's for claimants, it is ordered that this case be continued until the 21st day of January, 1858, at 11 o'clock a. m.

97

98 *Summons.*

UNITED STATES OF AMERICA,
Southern District of California, ss:

The President of the United States to Thomas Russell, et al., greeting:

Take notice, that a petition, a copy of which is herewith served upon you, has been filed against you, and each of you, in the district court of the United States in and for the southern district of California, on the 5th day of January, in the year of our Lord one thousand eight hundred and fifty-seven, at the city and county of Los Angeles, in said district, by P. Ord, U. S. att'y, praying said court to review the decision of the board of land commissioners of the 23d October, 1855, confirming in part your claim to land in Santa Cruz county, and that you, and each of you, are requested to appear at said court, in said city, within ten days after the service hereof if served on you within the county of Los Angeles, and within twenty days if served on you in the county of San Diego, or San Bernardino, and within forty days if served on you in any other county of said State, exclusive of the day of service, and answer said petition, or that judgment by default will be taken against you, and each of you, and the prayer of the said petitioner will be granted, with costs.

In witness whereof, I have hereunto set my hand and affixed the seal of the said court this 31st day of January, in the year of our Lord one thousand eight hundred and fifty-seven, at Los Angeles aforesaid. [SEAL.]

C. SIMS, *Clerk*,
p. J. H. COLEMAN, *Dep'ty.*

99 Received Feb'y 3d, 1857.
EDWARD HUNTER, *U. S. Marshal*,
p. M. L. GOODMAN, *Dep'ty.*

I return this summons, along with the proper, copy of the petition, by order of P. Ord, U. S. dist. attorney, as an answer has been filed at ——, in the southern district of California, on the 18th day of January, A. D. 1858.

JAMES C. PENNIE,
U. S. Marshal for the S. D. of California.

Filed 20th Jan'y, 1858.

C. SIMS, *Cl'k*,
p. J. H. COLEMAN, *Dep'y.*

269

100 *Order of continuance.*

Whereupon the following order was made in open court, to wit:

U. S. dist. court, south'n dist. Cal'a, December term, A. D. 1857.

THOMAS RUSSELL *et al.* } No. 383
vs.
THE UNITED STATES. }

FEBRUARY 1ST, 1858.

On motion of Sloan & Hartman, att'ys of claimants, this case is set down for trial on Wednesday, the 3d of February, A. D. 1858, at 11 o'clock a. m.

Submission and decision.

U. S dis't court, south'n dis't of Cal'a, December term, A. D. 1857.

THOMAS RUSSELL *et al.* } No. 383.
vs.
THE UNITED STATES. }

FEBRUARY 8TH, A. D. 1858.

Now, on this day, come the appellees aforesaid, by their att'ys aforesaid, and after argument of counsel, the same is submitted, and confirmed and rejected in part by the court.

101

102 *Motion for rehearing.*

In the district court of the United States, southern district of California.

THOS. W. RUSSELL, appellant, } No. 383, land near, Santa Cruz.—
ads. Transcript No. 747.
THE UNITED STATES, appellee. }

Motion.

Now, comes the appellant by his attorneys, Sloan & Hartman, and moves the court for a rehearing in said cause, as to their part of the land claimed in said cause under the alleged grant of Manuel Micheltorena, former governor of the Californias, to one Buelna—

1st. On the ground of newly discovered evidence

2d. Because other evidence touching the contents of said alleged lost grant can be supplied by appellants.

3d. Because the present counsel of appellant was misled by a mistake in pleading of the former attorney of appellant.

And for divers other causes apparent in said record and finding.

Appellant also moves the court for leave to file affidavits, depositions, and documentary evidence in support of this motion.

SLOAN & HARTMAN, *for App'l't.*

Filed Feb'y 10th, 1858.

C. SIMS, *Cl'k.*

104 *Order.*

THOS. W. RUSSELL
ads.
THE UNITED STATES. } No. 383.

On filing a motion for rehearing in this case, and on motion of Sloan & Hartman attorneys of appellants, it is ordered that said motion be continued until the June term of this court.

ISAAC S. K. OGIER,
U. S. Dist. Judge for the S. Dist. of Cal'a.

Filed Feb'y 10th, 1858.

C. SIMS, *Cl'k.*

105

106 *Notice of hearing.—Mot. for new trial.*

In the district court of the United States for the southern district of California.

THOMAS RUSSELL, appellant,
ads.
THE UNITED STATES, appellees. } No. 383.

To the clerk of said court, and the district attorney of the United States for said district:

Notice is hereby given that the motion for a new trial in said cause will be called up for argument, and said cause will be submitted to the court on the part of the appellant on the 10th inst., at 11 o'clock a. m. of said day, or as soon thereafter as the same can be heard.

June 2d, 1858.

ISAAC HARTMAN,
Att'y for Appellant.

Filed this 3d June, 1858.

C. SIMS, *Cl'k.*
p. J. H. COLEMAN, *Dep'ty.*

108 *Depo. of José Balcaff.*

United States district court, southern district of California.

THE UNITED STATES
vs.
THOMAS RUSSELL.

SAN FRANCISCO, *March* 16, 1859.

On this day, before Cutler McAllister, a commissioner of the United States for the northern district of California, duly authorized to administer oaths, &c., &c., came José Balcaff, a witness produced on behalf of the claimant in case No. 383, being an appeal from the board of commissioners to ascertain and settle the private land claims in the

State of California, in case No. 747 on the docket of the said board of commissioners, and was duly sworn, and testified as follows, his evidence being interpreted by Domingo Danglada, a sworn interpreter.

Present: Isaac Hartman, for claimant; P. Della Torre, U. S. dist. att'y for nor. dist. of Cal'a, for U. S.

Questions by att'y for claimant.

Quest. 1 Your name, age, place of residence, and occupation?

Ans. 1. José Balcaff; am sixty-four years of age; Watsonville, Santa Cruz county, is my residence. I am a ranchero or farmer.

Quest. 2. Are you acquainted with José Ramon Buelna; and if so, how long have you known him?

109 Ans. 2. I know José Ramon Buelna; I have known him thirty-seven or thirty-eight years.

Quest. 3. What do you know of said Buelna's procuring a grant from any governor of the Californias of a small tract of land near the town of Santa Cruz, in this State?

Ans. 3. I have some knowledge about it. I have seen a grant made by Micheltorena to Buelna for a tract of land near Santa Cruz?

Quest. 4. What was the name given to the tract of land in the title that you saw, and what was the extent of the land so granted?

Ans. 4. There was no particular name given to it; but it was a tract upon the "Ojo de Agua." The extent was 400 varas from north to south and 800 varas from the east to the west.

Quest. 5. Give the boundaries of said tract, as nearly as you recollect them.

Ans. 5. The boundaries in the title were bounded on the north by the land of Arana's, on the south by the land of the mission of Santa Cruz; don't recollect the other boundaries in the title.

Quest. 6. Do you remember what the date of the title was from Micheltorena to Buelna?

Ans. 6. It was dated in 1842, 1843, or 1844.

Cross-examination.

Quest. 1. When did you first see this title of which you have just spoken?

110 Ans. 1. I don't recollect exactly. It was in 1842, 1843, or 1844.

Ques. 2. Did you read the whole title?

Ans. 2. I did.

Ques. 3. Who was it signed by?

Ans. 3. By Micheltorena.

Ques. 4. When was it dated?

Ans. 4. I do not recollect.

Ques. 5. Who showed you the title, and on what occasion was it exhibited to you?

Ans. 5. Buelna showed me the title, as I was in charge of the mission.

Ques. 5. How many papers did Buelna show you at that time?

Ans. 5. Only the title.

Ques. 6. The boundaries that you have stated: did you read them or recollect them from hearing the title, or did you learn them in any other way?

Ans. 6. I read in the title the boundaries I have described.

Direct examination resumed.

Ques. 1. Who occupied and cultivated that tract of land from the time you saw that title up to 1848?

Ans. 1. Buelna.

Ques. 2. What improvements did Buelna have on the land?

Ans. 2. He had a house, an orchard and a saw-pit.

111 (This deposition taken subject to any legal objections.)

JOSE BALCAFF.

Subscribed and sworn to before me this 16 day of March, A. D. 1859.

CUTLER McALLISTER,
U. S. Com'r.

In the United States district court, southern district of California.

THE UNITED STATES, appellees, *vs.* THOMAS RUSSELL, appellant. } Case No. 383. D. C.—Transcript, No. —, L. C.

In this case it is stipulated and agreed between the attornies of the respective parties that the appellant have leave to take the testimony of witnesses residing in the northern district of California, before competent authority, by serving notice of the time and place of taking such testimony upon the district attorney of the U. S. northern district two days previous to taking the same, and that such testimony, when taken, may be used on the rehearing of this cause, provided such rehearing be granted by the court.

Los Angeles, August 5, 1858.

J. R. GITCHELL,

112 *U. S. Dist. Att'y for Southern Dist.*

ISAAC HARTMAN,
Att'y for Appellants.

Filed in office this 19th day of April, 1859.

C. SIMS, *Cl'k.*

113

114 *Continuance.*

Whereupon the following proceedings were had in open court, to wit:

U. S. dist. court, south'n dist. of Cal'a., June term, A. D. 1858.

THOMAS RUSSELL *et al. ads.* THE UNITED STATES. } No. 383.

JUNE 15TH, A. D. 1858.

This cause continued over to next term of court.

United States district court south'n dist. of Cal'a , December term, 1858.

THOMAS RUSSELL *et al.* *ads.* THE UNITED STATES. } No. 383.

APRIL 21ST, A. D. 1859.

Now, on this day, being the day upon which the said motion for a new hearing was set down, come the parties aforesaid by their respective attornies ; whereupon the counsel for claimant, in support of said motion, introduces the deposition of ———, and, by consent, the same is continued till to-morrow for argument.

115 *Decision.*

United States district court, south'n dist. of Cal'a., June term, A. D. 1859.

THOMAS RUSSELL *et al.* *vs.* THE UNITED STATES. } No. 383.

JUNE 17, A. D. 1859.

Now, on this day, come the parties aforesaid, by their att'ys aforesaid, and, after argument of counsel, the same is submitted to the court for final adjudication.

Whereupon the court, being fully advised in the premises, delivered its opinion confirming the same.

U. S. dist. court, south. dist. Cal'a., June term, A. D. 1859.

THOMAS RUSSELL *et al.* *vs.* THE UNITED STATES. } No. 383.

JUNE 18TH, 1859.

Now, on this day, a decree in this cause is signed in open court.

Decree.

116 In the district court of the United States for the southern district of California.

THOMAS W. RUSSELL *et al.*, appellants, *ads.* THE UNITED STATES, appellees. } Case No. 383, for lands near Santa Cruz. — Transcript No. 747.

This cause coming on to be heard on appeal from the decision of the United States board of land commissioners to ascertain and settle the private land claims in the State of California, under an act of Con-

gress approved March 3d, 1851, on a transcript of the decision and proceedings of said board, and the papers and evidence upon which said decision was founded, and on the evidence taken and filed in this court; and it appearing to the court that the said transcript and notice of appeal have been duly filed according to law, and counsel for the respective parties having been heard—

It is ordered, adjudged, and decreed, that the decision of said board of land commissioners be affirmed as to the following described tract of land, and that the claim of appellants is good and valid to the same, and the same is hereby confirmed to them, as following: The lot or parcel of land situate in the county of Santa Cruz, State of California, and known by the name of the Portrero y Rincon de San Pedro de Regalado, which is in extent five hundred varas from east to west and six hundred varas from south to north, as is more fully and particularly described by the accompanying deseño.

117 And it is further ordered, adjudged, and decreed, that the decision of said board of land commissioners be and the same is reversed as to the following described tract of land, and that the claim of the appellants is good and valid to the same; and it is hereby confirmed to them as follows: the tract of land situate in the aforesaid county of Santa Cruz, State aforesaid, and known by the name of the "Mesa del Ojo de Agua," bounded on the north by the place called the Portrero de San Pedro de Regalado, on the south by the lands of Nicolas Dalleno and Majors, on the west by the Nacimiento of the Ojo de Agua, and above it, and on the east by the Vista a la Mission, which is the edge of the plain where the mission of Santa Cruz is seen below the table; being in extent from the Mesa to the said Ojo de Agua about 800 varas from east to west, and from the lands of said Majors to the said Portrero de San Pedro de Reglado, about 400 varas from north to south, according to the calls of the grant, and for a fuller description of which said pieces or parcels of land, reference is here made to the map in the transcript, and to the documents and evidence on file in this case.

The land of which confirmation is hereby made is to the extent of four hundred of varas from north to south and eight hundred varas from east to west, and no more within the boundaries described in the petition and other documentary and oral testimony in the case, provided there be such quantity within said boundaries, and

118 should there be a less quantity therein contained, then confirmation is hereby made to such less quantity.

Thus done in open court this 18th day of June, A. D. 1859.

ISAAC S. K. OGIER,
U. S. Dist. Judge for the S. Dist. of Cal'a.

Filed in office 18th June, 1859.

C. SIMS, *Cl'k*

119

Motion and order for appeal.

120 District court of the United States, southern dist. of California.

THE UNITED STATES *vs.* FARNHAM & RUSSELL. } In D. C. No. 383, lands near Santa Cruz.—In L. C. No. 747.

Now comes J. R. Gitchell, U. S. dist. att'y, and moves the court for leave to take an appeal in the above-entitled cause.

J. R. GITCHELL,
U. S. Dist. Att'y.

Upon hearing of the above motion, it is ordered by the court that an appeal in the above-entitled cause is hereby granted.

Filed in office this the 14th Sept., 1859.

C. SIMS, *Cl'k.*

121

122 Whereupon the following order was made in open court, to wit:

Order of appeal.

United States district court south'n dist. of Cal'a, called term, September, 1859.

THOMAS RUSSELL *vs.* THE UNITED STATES. } 383.

SEPT. 15, 1859.

Now comes J. R. Gitchel, U. S. dist. att'y, and moves the court for leave to appeal the above-named case; which motion being heard by the court, is granted.

Wherefore it is ordered by the court that the appeal in the above case be, and the same is hereby, allowed.

123 United States district court for the south'n district of California.

CLERK'S OFFICE, *Monterey, Cal'a.*

I, John O. Wheeler, clerk of the United States district court for the south'n dist. of Cal'a, hereby certify the foregoing 122 pages, numbered from 1 to 122, both inclusive, to contain a full, true, and correct transcript of the record of the proceedings, of the documentary evidence and testimony of witnesses, and of the decision of the court thereon, in case numbered upon the docket of said court 383, wherein Thomas Russell *et al.* are the claimants against the United

States, for "land near Santa Cruz," as the same appear of file and record in my office.

In witness whereof, I have hereunto set my hand and affixed the seal of said court this the 18th day of February, A. D. 1862, at the city of Monterey, Cal'a.

[SEAL.]

JOHN O. WHEELER,
U. S. Dis't Cl'k, South'n Dist. Cal'a.

Filed Sept. 20, 1862.